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Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

RICHARD PETERS,

Plaintiff,

vs.

**CITY OF HILLSBORO, JOSEPH
EDWARDS,**

Defendants.

Case No.: 3:20-cv-491

COMPLAINT

**Civil Rights Action (42 U.S.C. § 1983)
Violation of Fourth Amendment**

**Disability Discrimination
(42 U.S.C. § 12131 et seq;
29 U.S.C. § 701 et seq)**

**Oregon Tort Claims Act (Or. Rev. Stat. §
30.260 et seq)**

Jury Trial Demand

NATURE OF THE CASE

1. Plaintiff is a 71-year old man who was assaulted by defendant Officer Joseph Edwards while being held in the booking area of the Washington County Jail on January 21, 2019.

JURISDICTION

2. This court has jurisdiction over the subject matter under 42 U.S.C. § 1983 and 28 U.S.C. §§ 1331, 1343(a)(3), and 1343(a)(4).

VENUE

3. Venue is proper within the District of Oregon because all of the events giving rise to these claims occurred in this judicial district, and all defendants reside in this judicial district. 28 U.S.C. § 1391(b). Specifically, all of the acts and practices alleged herein occurred at the Washington County Jail in Hillsboro, Oregon.

PARTIES

4. Plaintiff Richard Peters is a resident of Oregon. At all times relevant, he lived in La Pine, Oregon.

5. Defendant City of Hillsboro was at all material times the employer of Defendant Joseph Edwards, and ultimately responsible for his actions under the Oregon Tort Claims Act and the Americans with Disabilities Act.

6. Defendant Joseph Edwards (“Edwards”) is an employee of the Hillsboro Police Department.

FACTUAL ALLEGATIONS

7. On January 21, 2019, plaintiff was arrested on suspicion of driving under the influence of intoxicants and reckless driving by Officer Joseph Edwards.

8. Upon arrival to the Washington County Jail, plaintiff submitted to a breath test, which showed a BAC of 0.0%.

9. Following the breath test, plaintiff was evaluated by a Drug Recognition Expert in the booking area, unrestrained and unhandcuffed. Afterwards, he was instructed to sit in the pre-book area while paperwork was being finished.

10. Plaintiff made it known to the arresting officer that he had bad anxiety from PTSD and needed to pace. Plaintiff is a Vietnam war veteran and former marine with combat experience. His right leg is seriously injured from shrapnel, resulting in poor balance and difficulty sitting for long periods of time. He was told by the jail sergeant he could stand near the bench, but not pace, and if he needed to pace, he could do so in a holding cell.

11. Plaintiff had recently underwent knee surgery to remove shrapnel just prior to this arrest. His anxiety and discomfort became unbearable, and he was unable to keep from standing and taking some slow steps in the immediate area of the benches. There were no other prisoners in the booking area.

12. Despite the fact that plaintiff was simply standing in a wide-open area of the booking area and doing nothing more than speaking his displeasure with the situation, Edwards approached plaintiff, grabbed him by the shirt collar, and forced plaintiff into a seated position on the bench.

13. Plaintiff was understandably taken by surprise at this sudden show of force having not exhibited any threatening behavior whatsoever, was off balance, and reflexively reached for Edwards' wrist. Edwards responded by punching the elderly man in the face. When plaintiff put his hands in front of his face to protect himself from the assault, Edwards placed plaintiff into a chokehold position and punched him in the head a second time. Plaintiff still had his hands up

protecting his face when Edwards grabbed him with both hands by the collar again and violently threw plaintiff to the ground.

14. Four additional deputies then entered the booking area upon hearing the commotion, and all participated in forcefully restraining plaintiff on the ground. Two additional deputies came in at this point to offer further assistance. Those two deputies are the individuals that ultimately ended up escorting the now-handcuffed and battered plaintiff to a holding cell.

15. On June 17, 2019, the Washington County District Attorney's Office dismissed the charge of Driving Under the Influence of Intoxicants.

16. Mr. Peters served timely notice under the Oregon Tort Claims Act upon the City of Hillsboro on June 28, 2019.

**FIRST CAUSE OF ACTION
(Civil Rights 42 U.S.C. § 1983)
(Against Joseph Edwards)**

17. Defendant Edwards' use of force against Mr. Peters was objectively unreasonable under the circumstances.

18. Defendant's conduct toward Mr. Peters violates the Fourth Amendment.

**SECOND CAUSE OF ACTION
(Violation of Title II of the Americans with Disabilities Act and Section 504 of the
Rehabilitation Act)
(Against the City of Hillsboro)**

19. Richard Peters is a qualified individual with a disability because he a) suffers from a serious mental illness and b) suffers from a physical disability, both of which are limiting one or more of his major life activities, had a record of such impairment, and/or was regarded as having such an impairment.

20. The City of Hillsboro receives federal funds within the meaning of 29 U.S.C. § 794(a).

21. Defendant Joseph Edwards, as an employee of the City of Hillsboro, despite knowing about Mr. Peters' disabilities, failed to make reasonable accommodation of those disabilities by simply allowing Mr. Peters to stand near the benches or de-escalating the situation. Instead, Edwards escalated the situation without any need to do so, injuring Mr. Peters. In so doing, the City of Hillsboro was deliberately indifferent to Mr. Peters' right to be free from discrimination.

**THIRD CAUSE OF ACTION
(Oregon Tort Claims Act – Battery)
(Against City of Hillsboro)**

22. Joseph Edwards' use of force was intentional.
23. Joseph Edwards' use of force was objectively unreasonable.

PRAYER FOR RELIEF

WHEREFORE, plaintiff prays for relief as follows:

- a. For judgment in favor of plaintiff against defendants for economic and noneconomic damages for each violation in an amount to be proven at trial.
- b. For costs and reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 1988.
- c. For such other and further relief as may appear just, equitable, and appropriate.

JURY DEMAND

Plaintiff hereby demands a jury trial.

DATED this 24th day of March, 2020.

By: /s Jesse Merrithew
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